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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/814,581 | 03/30/2004 | Bernard Andreas | 021629-001000US | 5896 |

20350 7590 12/26/2006
TOWNSEND AND TOWNSEND AND CREW, LLP
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| EXAMINER |
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WEBB, SARAH K

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| ART UNIT | PAPER NUMBER |
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3731

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS | 12/26/2006 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/814,581

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| Applicant(s) | |
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ANDREAS ET AL.

Examiner

Sarah K. Webb

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| Art Unit |
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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
4a) Of the above claim(s) 4, 16-22 and 31-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-15 and 23-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/1/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 4,16-22 and 31-49 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species of invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/30/06. Regarding claim 4, the elected embodiment in Figure 4 does not include a seal.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,15, 27, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,490,837 to Blaeser et al.

Blaeser discloses a balloon catheter in Figure 1 comprising a catheter shaft (14) and a guide wire tube (44) having a proximal end separate from the catheter and a distal end coupled to the catheter. Blaeser states that the guide wire tube (44) has a length of about 135 cm (column 8, lines 54-58), which meets claim 15.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3,5-15 and 23-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,800,065 to Duane et al. in view of Blaeser et al.

Duane discloses a balloon catheter with a shaft (30) and a guide wire tube defining guide wire lumen (46) coupled to the catheter shaft. The device further includes a collar (32) that slidably receives the catheter shaft and guide wire tube (see Figure 12). As illustrated in cross-section in Figure 9, the collar (32) includes a spreader (74) positioned in a slit (48) of the guide wire tube (column 8, lines 43-45). Figure 14 shows a wire guide (171) on the collar that is positioned in the slit (48) of the guide wire tube (column 9, line 48 – column 10, line 9). The embodiment in Figure 17 shows another type of wire guide (435) (column 10, lines 32-44). The collar is capable of being positioned in a hemostatic device. Duane states that the device can be used to deliver a stent (column 7, line 51).

Duane fails to form the catheter and guide wire tube so that the proximal end of the guide wire tube is separate from the catheter shaft. Duane states in the background section of the disclosure that an alternative construction to an “over the wire” catheter with multilumen construction is “co-axial” construction, where the guide wire tube is formed separately from the catheter (column 2, lines 8-26). Blaeser discloses such a co-axial balloon catheter. Since both the devices of Duane and

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Blaeser are guide wire exchange catheters, they are analogous. Blaeser teaches that this co-axial construction allows the guide wire tube (44) to slide relative to the shaft during use in for exchange of catheters (column 5, lines 9-11 and line 53 to column 6). It would have been obvious to one of ordinary skill in the art at the time the invention was made to configure the wire guide of Duane for use with a co-axial type of guide wire exchange catheter, as Blaeser teaches that the co-axial construction allows the catheter and guide wire tube to move relative to one another during a procedure. Since the shaft is separate from the guide wire tube, it would have been obvious to modify the wire guide to include two separate lumens.

Regarding claims 25,26,28, and 29: Duane states that it is well known in the art of balloon catheters to advance the device to the treatment site through a delivery sheath (column 2, lines 1-7).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah K. Webb whose telephone number is (571) 272-4706. The examiner can normally be reached on Mon-Fri 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SKW

12/6/06

Julian W. Woo
JULIAN W. WOO
PRIMARY EXAMINER